

PLANNING COMMISSION MINUTES

October 31, 2001

CALL TO ORDER:

Chairman Vlad Voytilla called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Vlad Voytilla, Planning Commissioners Bob Barnard, Gary Bliss, Eric Johansen and Dan Maks. Planning Commissioners Russell Davis and Brian Lynott were excused.

Senior Planner John Osterberg, Associate Planner Tyler Ryerson, Transportation Planner Don Gustafson, Assistant City Attorney Ted Naemura and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Voytilla, who presented the format for the meeting.

VISITORS:

Chairman Voytilla asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

STAFF COMMUNICATION:

On question, staff indicated that there were no communications at this time.

NEW BUSINESS:

Chairman Voytilla opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda. There was no response.

1 **PUBLIC HEARINGS:**

2

3 **A. PRINCE OF PEACE LUTHERAN CHURCH EXPANSION**

4 The following land use applications have been submitted for the two-phased
5 construction of new church facilities. Phase one of the proposal includes the
6 addition of a 6,000 square foot multi-purpose building. Phase Two of the
7 proposal includes the demolition of the existing church building and
8 construction of a 15,000 square foot addition to the Phase One multi-purpose
9 building, with associated parking and landscaping improvements. The
10 development proposal is located at 14175 NW Cornell Road, and is more
11 specifically described on Washington County Assessor's Map 1N1-33BB,
12 Tax Lot 6900. The site is zoned Urban Standard Density (R-7), and is
13 approximately 3.59 acres in size.

14

15 **1. CUP 2001-0017 – CONDITIONAL USE PERMIT**

16 This application is a request for Planning Commission approval of a
17 Conditional Use Permit (CUP), which is required for church facilities
18 located within the R-7 zoning district, for the expansion of the existing
19 church facility. A decision for action on the proposed development shall
20 be based upon the approval criteria listed in Section 40.05.15.2.C.

21

22 **2. VAR 2001-0011 -- VARIANCE**

23 This application is a request for Planning Commission approval of a
24 Variance for the reduction of the required thirty foot setback for the side
25 or rear lot line abutting a residential zone in order to reduce the building
26 setback along the north property line to 25 feet. A decision for action on
27 the proposed development shall be based upon the approval criteria listed
28 in Section 40.80.15.2.C.

29

30 On question, Commissioners Barnard, Bliss, Johansen and Maks, and Chairman
31 Voytilla all indicated that they had visited the site and had not had any contact
32 with any individual regarding these applications.

33

34 Associate Planner Tyler Ryerson submitted the Staff Reports and discussed the
35 procedure for hearing both applications simultaneously, emphasizing that any
36 testimony should address either the Conditional Use Permit application or the
37 Variance application.

38

39 Mr. Ryerson described the proposal for the Conditional Use Permit and provided
40 a brief history of the site. He mentioned that several written communications had
41 been received, as follows: 1) a communication, dated October 13, 2001, from
42 Lois Mihelic, in opposition to both the Conditional Use Permit and the Variance,
43 based on the size and impact of the building and potential traffic impacts; and 2) a
44 communication, dated October 25, 2001, from Mr. Karl Steady, representing the
45 Millridge Townhouses Homeowners' Association, commending the church for its
46 positive impact on the community and requesting a five-foot reduction of the

1 requested thirty-foot setback from the lot line abutting the town home property,
2 only for the first proposed building and under the condition that the true property
3 line is observed. He pointed out that the proposal meets the requirements of
4 Section 60.20.10.5 of the Development Code, which addresses off street parking
5 requirements, clarifying that the site plan would meet both the minimum and
6 maximum required parking spaces. Referring to page 26 of the Conditional Use
7 Permit Staff Report, he requested two corrections, as follows: 1) Condition of
8 Approval No. 3 -- delete Development Code Section 40.10.15.3.a; and 2)
9 Condition of Approval No. 4 -- change the area code from 506 to 503.
10 Concluding, he recommended approval of the Conditional Use Permit, under the
11 specified Conditions of Approval.

12
13 Mr. Ryerson described the proposal for the Variance, and cited setback variance
14 approval criteria applicable for this application, and explained how the proposal
15 does not meet the requirements of criterion 1, 2 and 3. Concluding, he
16 recommended denial of the Variance, and offered to respond to any questions or
17 comments regarding both the Conditional Use Permit and the Variance.

18
19 Commissioner Maks referred to page 11 of the CUP Staff Report, which
20 addresses parking standards, and requested clarification of whether any guarantee
21 exists to assure that the classrooms would not be in use at the same time as the
22 sanctuary.

23
24 Mr. Ryerson observed that he has no such guarantee, noting that Transportation
25 Planner Don Gustafson might be able to address this issue.

26
27 Transportation Planner Don Gustafson explained that most of the use for the
28 facility exists at this time, adding that while the sanctuary capacity would increase
29 from 150 individuals to 300 individuals, it is difficult to determine the potential
30 increase resulting from the other uses. He pointed out that the matrix indicates
31 that there would be other occasions that would result in a large attendance.

32
33 Emphasizing that he understands the need, Commissioner Maks pointed out that a
34 wedding with an attendance of 500 individuals would most likely involve at least
35 125 vehicles, adding that this does not even include vehicles for the clergy,
36 flowers and caterers, etc. and expressing his opinion that 125 parking spaces is
37 inadequate.

38
39 Mr. Gustafson suggested that personal site visits would be necessary to determine
40 whether parking is adequate.

41
42 Commissioner Maks reiterated his question of whether there is any guarantee that
43 no other portion of the building would be utilized while the sanctuary is full.

44
45 Mr. Ryerson agreed that no such guarantee exists.
46

1 Commissioner Maks observed that there is currently a total of 150 students in the
2 pre-school, noting that another expansion would require an additional Conditional
3 Use Permit, and questioned whether this determination had been based upon an
4 enrollment of 75 or 150 students.

5
6 Mr. Ryerson informed Commissioner Maks that it had been determined that an
7 enrollment of more than 150 students would require an additional Conditional
8 Use Permit.

9
10 Commissioner Johansen referred to the communication from Mr. Steady and the
11 Variance application, and questioned specifically whether there is any provision
12 within the Development Code to waive the thirty-foot setback requirement if the
13 adjacent property owners agree.

14
15 Mr. Ryerson informed Commissioner Johansen that he is not aware of any such
16 provision, clarifying that the Development Code clearly specifies a thirty-foot
17 setback for churches, religious institutions and hospitals abutting residential
18 property.

19
20 Chairman Voytilla referred to the parking issue mentioned by Commissioner
21 Maks, and questioned the number of classrooms that would be generated if this is
22 considered an educational facility and requested information regarding the
23 proposed occupancy.

24
25 Mr. Ryerson stated that the occupancy based upon what the Development Code
26 indicates for the parking tables is that of a church, specifically pertaining to the
27 maximum capacity of the sanctuary.

28
29 Chairman Voytilla pointed out that he is considering what the opinion of the
30 Building Department would be for this facility, noting that they would be basing
31 their determination upon use and occupancy load, etc., emphasizing that it is
32 necessary to consider that this use runs with the land.

33
34 Chairman Voytilla referred to fire and emergency services, observing that he has
35 not noticed any type of fire lane surrounding the building on the plan.

36
37 Mr. Ryerson pointed out that the Facilities Review Committee provides Technical
38 and Advisory Notes, noting that fire and emergency issues are addressed within
39 this document.

40
41 **APPLICANT:**

42
43 **LARRY ABELL**, introduced himself and the applicant, Matthew Mattsson, and
44 provided a brief overview of the project and submitted several illustrations of the
45 existing site for reference purposes. He described the proposed two-phase plan,
46 indicating that all of the applicable information is provided in the packet. He

1 discussed parking issues, observing that the applicant had considered relocating
2 the existing modular buildings until the first construction phase had been
3 completed, at which point they would be removed. He referred to page 25 of the
4 Staff Report, indicating that some outdoor play areas are proposed. He provided
5 various illustrations and discussed efforts to integrate the proposed development
6 into the existing neighborhood. He discussed the existing setback, pointing out
7 that the applicant had not taken the setback as far as possible, and emphasized that
8 the Conditional Use Permit and the Variance are linked together. He described
9 efforts at preserving an existing tree, observing that preservation is difficult with
10 this stand-alone, individual tree and that this particular tree is actually in the way.
11 He discussed grading that is required in order to mitigate one of the problems with
12 the existing church, specifically the multi-levels, emphasizing that the applicant is
13 attempting to create a facility that is more easily accessible. He discussed the
14 situation involving a stand-alone tree that the applicant would like to remove,
15 adding that the applicant would like to mitigate this removal with a small grove
16 consisting of four birch trees proposed in the general vicinity of that tree. He
17 pointed out that street trees would be provided, as well, emphasizing that the
18 whole character of the landscaping on the site would change.

19
20 Commissioner Barnard referred to the parking issue, suggesting that the lack of
21 parking could become a source of frustration to both the neighborhood and the
22 members of the church, and questioned the feasibility of redesigning and
23 maximizing the parking area.

24
25 Mr. Abell advised Commissioner Barnard that the proposal pretty much addresses
26 utilizing the parking area as fully as possible, adding that the additional parking
27 would replace the modular structures currently in that location.

28
29 Commissioner Barnard referred to the Variance application, expressing his
30 opinion that approval would jeopardize the current guidelines with respect to
31 setbacks in future applications.

32
33 Observing that this building has existed in this location for forty years and has
34 only been recently annexed in 1999, Mr. Abell emphasized that this area had just
35 been converted into an R-7 zoning district. He clarified that this R-7, which is
36 single-family residential, would be located in between R-15 (multi-family
37 residential) and Cornell Road.

38
39 Commissioner Barnard advised Mr. Abell that R-15 is a Washington County
40 zone, adding that R-7 is a compatible City of Beaverton zone, emphasizing that
41 the connotation that R-15 is bigger or differently zoned than R-7 is not an issue
42 and that this basically involves two separate jurisdictions who have applied a
43 different number to the same zone. He pointed out that this is a brand new
44 building, rather than the reconstruction of a building that has been destroyed by
45 fire or some other means.

1 Mr. Abell assured Commissioner Barnard that he is aware that the site is multi-
2 family, rather than R-15, with greater density than single-family.

3
4 Referring to the gym and the stage area, Commissioner Barnard questioned
5 whether a hallway is located between the gym and the classrooms and rather the
6 stage could be located in such a way that any other location could be considered a
7 hardship.

8
9 Mr. Abell observed that he would prefer to maintain the remainder of the design,
10 including the circulation access to the interior, adding that locating the gym space
11 to the inside does not work nearly as well.

12
13 Commissioner Barnard pointed out that locating the gym space to the inside
14 would work internally.

15
16 Mr. Abell advised Commissioner Barnard that after considering all available
17 options, the applicant had felt that this would be the most feasible, adding that this
18 would provide some outdoor space and the potential of bringing in some natural
19 light.

20
21 Commissioner Bliss questioned whether the proposed patio would be located
22 outside the setback zone.

23
24 Mr. Ryerson informed Commissioner Bliss that as long the patio is less than thirty
25 inches in height, it could be located within the setback.

26
27 Commissioner Bliss questioned the possibility of shifting the building forward a
28 little bit further to make up the five feet and still meet the code.

29
30 Mr. Abell stated that he appreciates that challenge, observing that this would
31 result in relocating the entire building, pointing out that the applicant is
32 attempting to create a more visually interesting structure. On question, he
33 observed that the finished grade surrounding the building would be lowered two
34 to three feet in elevation.

35
36 Noting that 121, 124, 128, 150 and 152 spaces have all been indicated,
37 Commissioner Bliss requested clarification of how many parking spaces would be
38 actually available.

39
40 **MATTHEW MATTSSON**, representing *Architect LA*, observed that while they
41 have been struggling with the schematic design of the building, he would prefer to
42 use the larger number to allow for some flexibility in order to massage the
43 building as fully as possible.

44
45 Commissioner Maks requested clarification of how many parking spaces are
46 planned.

1 Mr. Mattsson advised Commissioner Maks that the applicant had not attempted to
2 put any parking spaces in during Phase 1, while they would like to install as many
3 as possible during Phase 2, adding that 152 spaces would be the maximum.
4

5 Referring to the pre-school, Commissioner Maks pointed out that while there are
6 75 morning students and 75 afternoon students, the matrix indicates that this
7 amount could increase to 100 morning students and 75 afternoon students. He
8 questioned how the students arrive, specifically whether they are dropped off
9 individually or ride the bus.
10

11 **JODY THURSTON**, informed Commissioner Maks that the children are
12 individually dropped off by their parents in a circle and picked up the same way,
13 adding that staff brings the children out and puts them into their respective
14 vehicles. She clarified that the morning class hours are 9:00 a.m. until 11:30 a.m.,
15 while afternoon class hours are 1:00 p.m. until 3:30 p.m., although the individual
16 teachers may arrive as early as 8:30 a.m.
17

18 Commissioner Maks discussed the a.m. peak period, which includes 24 vehicles,
19 noting that he is concerned with how the remaining 51 students are arriving.
20

21 Mr. Mattsson pointed out that some of these students arrive at various other times.
22

23 Ms. Thurston observed that the students are not allowed into the building until
24 8:55 p.m.
25

26 Commissioner Maks emphasized that with staff and various students arriving, the
27 24 vehicles indicated during the a.m. peak period do not add up. He referred to
28 the Traffic Study on page 5, specifically the vehicular trip generation, and
29 questioned which column had been prepared specifically based upon a study of
30 the church.
31

32 Mr. Mattsson informed Commissioner Maks that the first column involves the
33 existing church, while the second column addresses the church with the
34 expansion.
35

36 Referring to the percentages indicated on Figure No. 12, Commissioner Maks
37 mentioned that Figure No. 15 indicates the number of trips and the percentages,
38 adding that the Traffic Study indicates that 74 vehicles would be turning left and
39 entering the site. He emphasized that the study states that these trips are only due
40 to expansion, noting that this is worse than he thought. Observing that twenty feet
41 is the standard, he noted that adequate stacking is available for seven cars.
42

43 Mr. Mattsson commented that the majority of the queuing would occur within the
44 site.
45

1 Commissioner Maks requested clarification of how it is adequate with 74 vehicles
2 turning onto the site, at Level of Service "F" and exceeding the 50-second delay.

3
4 Mr. Mattsson stated that there is adequate room for vehicle storage because all of
5 these vehicles are not turning left at the same time.

6
7 Commissioner Maks pointed out that the 74 vehicles are site-generated due to
8 expansion, adding that this would increase by adding the existing vehicular trips
9 to the 74 vehicles.

10
11 Mr. Mattsson observed that based upon the queuing length available on Cornell
12 Road and the time period involved, the greatest problem would affect the vehicles
13 exiting the church site. Noting that these vehicles could queue within the site, he
14 stated that while it could take these vehicles longer to get out of there, the existing
15 services are adequate for the vehicles entering the site.

16
17 Commissioner Maks informed Mr. Mattsson that the times could not be spread
18 out, emphasizing that the issue involves 74 vehicles during that peak hour. He
19 pointed out that the issue involves safety, as well as stacking.

20
21 Noting that he has no clear response to that issue, Mr. Mattsson stated that the
22 Level of Service "F" is during p.m. weekday peak periods.

23
24 Referring to concerns with stacking within the parking lot, Commissioner Maks
25 questioned how much time elapses between services, and was informed that each
26 services is 1-1/2 hours apart. He questioned whether the applicant has a problem
27 with being conditioned to provide additional parking and to only utilize specific
28 portions of the facility at one time. He discussed issues involving the proposed
29 amount of parking spaces and the matrix of what could be provided, as well as the
30 potential mixture of uses. He pointed out that while the church is accomplishing
31 all of this good work, the traffic generated by these efforts is also impacting the
32 community.

33
34 Mr. Abell assured Commissioner Maks that every effort is made to address and
35 meet applicable criteria when designing a project such as this.

36
37 Commissioner Maks commended the applicant for what he referred to as the best
38 accounting and presentation from a church application that he has reviewed.
39 Observing that with 100 parishioners, the parking lot is 45% to 55% full at this
40 time, he noted that there would not be adequate parking to triple this amount.

41
42 Noting that Phase 1 is the issue at this time, Mr. Abell stated that this would be
43 addressed during Phase 2.

44
45 Commissioner Maks advised Mr. Abell that before he can approve this matrix and
46 uses, it is necessary to determine that adequate infrastructure is available.

1 Referring to the classrooms, pre-school and Sunday School calculations,
2 Chairman Voytilla emphasized that a Conditional Use runs with the land and
3 whatever the intent might be at this time could possibly change at some future
4 point. He questioned whether staff has prepared a specific Condition of Approval
5 that would restrict the number of students to be on the site at one time.

6
7 Mr. Ryerson stated that there is no specific Condition of Approval to restrict the
8 number of students to be on site at one time, adding that based upon his original
9 statements, staff is recommending that the applicant be required to submit an
10 application for an additional Conditional Use Permit if they exceed the number
11 that is specified on the matrix.

12
13 Chairman Voytilla questioned whether staff has discussed a potential fire lane on
14 the north end of the property with the Fire Marshall.

15
16 Mr. Abell observed that it had been determined that there is adequate public
17 access all around the site, adding that applicant is willing to meet any necessary
18 requirements.

19
20 At the request of Chairman Voytilla, Mr. Abell provided copies of illustration of
21 the north elevation of the proposed development, indicating the proposed location
22 of the gymnasium, and discussed the various setbacks throughout the proposal.

23
24 Commissioner Maks mentioned that he is concerned with stacking, observed that
25 there is 1-1/2 hours between services, and questioned whether it is customary for
26 members of the church to have get-togethers before and after services.

27
28 Ms. Thurston informed Commissioner Maks that fellowship time, including
29 coffee and discussion, generally occurs following the church service, adding that
30 Sunday School, which generally involves fifteen children, Grades K through 6, is
31 scheduled from 9:15 a.m. until 10:15 a.m. On question, she advised him that she
32 has never experienced stacking of more than two vehicles.

33
34 8:41 p.m. until 9:52 p.m. – break.

35
36 **PUBLIC TESTIMONY:**

37
38 On question, no member of the public appeared to testify regarding this
39 application.

40
41 Mr. Ryerson discussed the proposal and setback issue, reiterating that this
42 involves the abutting zones, and observed that even if the City of Beaverton had
43 an institutional zone, it would still involve an institutional zone abutting a
44 residential zone. He referred to Washington County Development Code Section
45 430-29.5, which involves Special Uses, noting that church setbacks to rear
46 property lines are based upon height.

1 Commissioner Johansen expressed his opinion that this information is not
2 specifically relevant to this particular application, emphasizing that Mr. Ryerson
3 had referenced the Washington County Development Code, rather than the City of
4 Beaverton Development Code.

5
6 Mr. Ryerson advised Commissioner Johansen that he had researched and
7 provided this information as a point of clarification for the applicant, emphasizing
8 that any future private school would require an additional Conditional Use Permit,
9 at which point any parking issues would be considered.

10
11 On question, Assistant City Attorney Ted Naemura indicated that he had no
12 comments or questions regarding this application.

13
14 The public portion of the Public Hearing was closed.

15
16 Referring to the Conditional Use Permit, Commissioner Johansen expressed his
17 approval of the proposed location for the expansion, adding that it provides the
18 potential of compatibility with the surrounding neighborhood. He mentioned that
19 he has concerns with the parking issue, observing that there is a potential for a
20 parking problem and that there should be a Condition of Approval imposed to
21 address this issue. Noting that the Planning Commission has a tendency to focus
22 on traffic issues, he pointed out that the applicant's Traffic Engineer should have
23 been available for questions and comments. He commented that with specific
24 Conditions of Approval to address parking and compatibility issues, this
25 application should meet applicable criteria. He discussed the Variance
26 application, observing that he is in agreement with staff's opinion that the
27 variance criteria are not flexible and that this application should be denied.

28
29 Commissioner Bliss agreed that the proposed location is a compatible site, noting
30 that a church fits into the residential character of the neighborhood. He discussed
31 parking and site issues, adding that he would approve the Conditional Use Permit
32 with appropriate Conditions of Approval and that he is in support of staff's
33 recommendation for denial of the Variance.

34
35 Chairman Voytilla observed that he is also concerned with parking issues,
36 emphasizing that the burden of proof is on the applicant, and that the applicant
37 can cause damage to the presentation by not providing all appropriate professional
38 staff to address applicable criteria. Referring to the Variance, he expressed
39 concern with the fact that the tallest portion of the structure is where the applicant
40 has requested the Variance, adding that this does not indicate sensitivity to the
41 character of the neighborhood. He agreed that this is a good location for the
42 proposal, although the applicant is perhaps attempting to create too much, adding
43 that he could not approve of the Conditional Use Permit without a proper plan and
44 that he is not in support of the Variance.

45

1 Commissioner Maks emphasized that it is necessary to meet all applicable criteria
2 for a Variance, adding that he does not support this application. Expressing his
3 agreement with comments by his fellow Planning Commissioners, he stated that
4 because he is aware of the need in this community, he does not like to turn down
5 any church expansion. He reiterated Chairman Voytilla's comments regarding
6 the necessity of providing appropriate professional staff, noting that he does not
7 feel certain that the necessary proof has been established. He mentioned that he is
8 not concerned with the tree discussed by Mr. Abell, which is not identified as
9 significant, although he does have concerns with traffic stacking, adding that the
10 study indicates that there would be a delay created by a queuing of more than
11 seven vehicles. He pointed out that he could not approve the application and
12 include an appropriate Condition of Approval if the necessary information is not
13 available, adding that he is not able to understand how 188 vehicles could park in
14 128 parking spaces. Observing that his decision must be based upon objective
15 criteria, he noted that 150 parking spaces might be adequate, and that although he
16 would like to, he is not able to approve the application with the information that
17 has been provided.

18
19 Commissioner Barnard stated that the Variance request is aesthetic and does not
20 involve a hardship, adding that he concurs with staff's recommendation and could
21 not support this application. Observing that he agrees with the comments of
22 Commissioners Johansen and Bliss, he stated that the tree is not an issue. He
23 expressed his concern with parking and queuing issues, noting that he does think
24 the applicant submitted a good proposal. He commented that he would support
25 the Conditional Use Permit provided that the parking issues would be addressed
26 adequately, emphasizing that 150 parking spaces might not be physically feasible.

27
28 Commissioner Maks reiterated that he is basing his decision on the objective
29 evidence, rather than his own personal opinion.

30
31 Apologizing for not having a Traffic Engineer available to respond to questions,
32 Mr. Abell observed that it could be possible to locate 150 parking spaces on the
33 site. He requested a continuance to allow the applicant an opportunity to address
34 the controversial issues.

35
36 Noting that a continuance form is available for signature by the applicant, Mr.
37 Ryerson observed that the next available dates for a continuance for the
38 Conditional Use Permit are November 28, 2001, and December 5, 2001. He
39 pointed out that the December 5, 2001 meeting already has three Public Hearings
40 scheduled.

41
42 Commissioner Maks cautioned the applicant not to misconstrue his previous
43 statements, emphasizing that it could be determined that more than 150 parking
44 spaces are necessary.

1 Mr. Abell requested that the Public Hearing for the Conditional Use Permit be
2 continued until November 28, 2001, to address parking, traffic and site plan
3 issues.

4
5 Commissioner Maks **MOVED** and Commissioner Barnard **SECONDED** a
6 motion that VAR 2001-0011 – Prince of Peace Lutheran Church Expansion
7 Variance be **DENIED**, based upon the testimony, reports and exhibits presented
8 during the Public Hearing on the matter and upon the background facts, findings
9 and conclusions found in the Staff Report dated October 24, 2001.

10
11 Motion **CARRIED**, unanimously.

12
13 Commissioner Maks **MOVED** and Commissioner Barnard **SECONDED** a
14 motion that CUP 2001-0017 – Prince of Peace Lutheran Church Expansion
15 Conditional Use Permit be **CONTINUED** to a date certain of November 28,
16 2001, for the purpose of receiving additional information and testimony limited in
17 scope to parking, traffic and site plan issues.

18
19 Motion **CARRIED**, unanimously.

20
21 **B. APP 2001-0016 – APPEAL OF STERLING PARK SUBDIVISION**
22 **MODIFICATIONS (SB 2001-0002)**

23 This land use application involves an appeal of the Planning Director's
24 decision of October 5, 2001, approving the request for modification to the
25 Sterling Park Subdivision. This approval was for the request to modify a
26 portion of the subdivision plat (SUB 94-0014), approved April 7, 1998, which
27 was a modification of a portion of the original Sterling Park subdivision
28 approval (SUB 94-0014), dated October 19, 1995. The applicant proposes to
29 divide Tracts "E" and "M" of Sterling Park to create subdivision lots, with
30 access to Blackbird Drive. Tracts "E" and "M" are proposed to be assembled
31 into land that will provide three new residential lots proposed with fifteen foot
32 rear yard setbacks, in addition to modifying the size and shape of existing Tax
33 Lot 4700.

34
35 Commissioners Barnard, Bliss and Johansen and Chairman Voytilla all indicated
36 that they had visited the subject site and had not had any contact with any
37 individual regarding this appeal or application.

38
39 Commissioner Maks stated that he had visited the site and observed
40 approximately fifteen individuals dressed in camouflage and armed with paintball
41 guns climbing over a fence, adding that he had made no contact with them and
42 that they had not shot at him.

43
44 9:30 p.m. – Mr. Ryerson left.
45

1 Senior Planner John Osterberg submitted and summarized the Staff Report,
2 including the attached materials and exhibits, and briefly described the appeal of
3 the Planning Director's approval of the Sterling Park Subdivision Modification.
4 He pointed out that this modification provided for the division of two tracts of the
5 Sterling Park Subdivision Tracts "E" and "M" for the specific purpose of creating
6 three new building lots. He mentioned there has been an issue with the status of
7 Blackbird Drive, specifically whether there should be a provision to provide for
8 any potential future extension. He discussed several options, including the
9 extension of Blackbird Drive to join Alvord Lane, or the potential extension of
10 Alvord Lane to the north of the Sterling Park Subdivision, providing a connection
11 to potential future streets. He observed that both the appellant and the applicant
12 would be addressing certain issues. Concluding, he recommended denial of APP
13 2001-0016 and approval of SB 2001-0002, with two specific Conditions of
14 Approval, and offered to respond to questions or comments.

15
16 Commissioner Bliss observed that he had experienced some confusion with
17 certain issues regarding this development, adding that while expansion of the
18 Urban Growth Boundary (UGB) is discouraged, this should sometimes be
19 considered as a viable possibility. He pointed out that while the majority of this
20 site is attractive, open and inviting, the triangular parcel that would be created by
21 its separation from the rest of Tract "B" of Murray Ridge, is isolated and does not
22 appear to be a part of the remainder of the site. On question, he informed Mr.
23 Osterberg that he is referring to Exhibit No. 3 of the applicant's submittal and a
24 map illustrating this strip of land from north to south.

25
26 Mr. Osterberg advised Commissioner Bliss that staff does not see the purpose of
27 Tract "B" being changed, noting that the tract would be divided by a street.

28
29 Commissioner Bliss observed that while he sees no proposal for a change, he does
30 not feel that this parcel of land, which he referred to as *No Man's Land*, involves
31 good planning, and expressed his concern with the future ability for pedestrian
32 access from one side of Tract "B" to the other.

33
34 Mr. Osterberg pointed out that on the Crist property, the street alignment takes a
35 big curve, which should provide for a more realistic proposal. He noted that
36 because this provides for the realignment of lots within the Crist property, in a
37 similar manner in which Blackbird Drive provides lots on the north side, this
38 would provide lots along the south side of Alvord Lane on the Crist property.

39
40 Commissioner Johansen questioned whether staff had considered the potential
41 need for multiple accesses to the Alvord Lane extension to the north.

42
43 Mr. Osterberg commented that the number of accesses should be addressed in
44 considering the details of the future development of the property, adding that it is
45 reasonable to assume that in addition to the north/south streets, there are stub

1 streets on both the north and south of the Crist property, one of which would most
2 likely stub to Tract "B", to provide for a future Alvord Lane extension.

3

4 Commissioner Johansen questioned whether staff had concluded that the future
5 east/west road would provide a better access than that off of the end of Blackbird
6 Drive. He specifically requested clarification of whether there is a traffic issue
7 causing staff to be opposed to this.

8

9 Mr. Osterberg observed that staff's conclusion is that either connection would
10 accomplish both vehicular and pedestrian circulation objectives for that area, as
11 envisioned by the Comprehensive Plan, and that either would connect Alvord
12 Lane.

13

14 Commissioner Johansen requested clarification of whether the owners of the Crist
15 property have been made aware of this process.

16

17 Mr. Osterberg mentioned that he had spoken with Marjorie Crist's son recently, as
18 well as her attorney several weeks ago.

19

20 Commissioner Johansen expressed concern about making a decision that is good
21 for transportation purposes, as opposed to development purposes, which may or
22 may not be in the best interest of the local traffic system.

23 Mr. Osterberg pointed out that traffic connections occur through a variety of
24 methods, adding that generally, incremental street section by street section
25 connections for properties of this scale or magnitude occur within the City of
26 Beaverton. He noted that some streets are constructed and planned in a much
27 larger and more comprehensive manner, through the CIP process, for example.
28 He pointed out that there are a number of issues regarding the potential expansion
29 of the UGB. Observing that it has been implied that there is a need for a street
30 extension to serve that area, he mentioned that there could be other locations to
31 accomplish the opportunity or potential for a future street extension to occur while
32 keeping within the intent of the Comprehensive Plan.

33

34 Chairman Voytilla requested clarification of the number of homes currently on
35 Blackbird Drive, specifically whether there is a potential safety issue involved
36 with the existence of only one access.

37

38 Mr. Osterberg advised Chairman Voytilla that emergency access is not an issue
39 and that he does not have the information regarding the number of homes beyond
40 Siskan Terrace or the closest intersecting street.

41

42 Chairman Voytilla pointed out that Siskan Terrace is not a through street at this
43 time.

44

45 Mr. Osterberg noted that there is the ability to provide an emergency access,
46 adding that safety is always an important issue.

1 Chairman Voytilla expressed concern with one access for 25 homes.

2

3 Mr. Gustufson noted that the subdivision currently has about fourteen lots beyond
4 the intersection of the closest street, Whitebird Lane, that provides a second
5 access, and that this approval would create three additional lots, adding that there
6 is no emergency access problem.

7

8 Commissioner Maks questioned whether the area identified by Commissioner
9 Bliss as *No Man's Land* has ever been dedicated or preserved as open space in a
10 land use action.

11

12 Mr. Osterberg pointed out that the Staff Report refers to a document, specifically
13 the Murray Ridge Conditions of Approval from Washington County referring to
14 Tract "B" as open space. He mentioned that staff also identifies several other
15 issues at the end of the Staff Report, specifically that there is not a particular
16 Condition of Approval requiring that this parcel be preserved as open space. He
17 noted that the plat describing the purposes of Tract "B" also does not indicate that
18 this area should be reserved as open space. He emphasized that this area has been
19 referred to as open space by Washington County on one document but not on
20 another document.

21

22 Commissioner Maks questioned whether any particular individual or entity is
23 responsible for overseeing that specific property.

24

25 Mr. Osterberg informed Commissioner Maks that this property is owned by *D. R.*
26 *Horton, Inc.*, who is the developer of the Murray Ridge Subdivision, and has not
27 been dedicated as a park or to another agency.

28

29 Commissioner Barnard pointed out that he had read that there had been an
30 easement for a right-of-way on that tract of land, and was informed that this is
31 true, although the easement had been located higher up.

32

33 Mr. Osterberg noted that Tract "B" includes an easement for a pedestrian and
34 bicycle path, adding that one of the exhibits illustrates this on the associated
35 landscape plan.

36

37 Commissioner Barnard questioned whether the easement received the approval of
38 the Crists.

39

40 Mr. Osterberg commented that this north/south path in Tract "B" does not connect
41 to the Crist property and did not require their approval.

42

43 Commissioner Maks questioned whether any right-of-way had been dedicated on
44 this property prior to this specific land use application.

45

1 Mr. Osterberg stated that there has been no right-of-way in Sterling Park
2 dedicated for a potential connection, although there is a small area of right-of-way
3 proposed with this particular application, adding that this is located in the extreme
4 northwest corner of the Sterling Park Subdivision.

5
6 Observing that this application would provide a right-of-way for a possible future
7 street, Commissioner Maks noted that a property owner could object to providing
8 land for a potential roadway extending beyond the UGB, emphasizing that
9 potential development might never occur to the west.

10
11 Assuring Commissioner Maks that staff is mindful of Conditions of Approval
12 requiring dedication of right-of-way, Mr. Osterberg reminded him that the
13 applicant has proposed the dedication of this small portion of land.

14
15 Agreeing that this involves a small piece of property, Commissioner Maks
16 referred to the proportionality of requiring a street to serve properties outside the
17 UGB, and stated that the area could not be built to this location and this property
18 might provide land for a road to accommodate one vehicular trip outside the
19 UGB.

20
21 Mr. Osterberg clarified that the applicant has proposed this dedication and that the
22 City of Beaverton has included this as a Condition of Approval.

23 Mr. Gustafson explained that this dedication had been requested in response to the
24 City of Beaverton's Comprehensive Plan.

25
26 Commissioner Maks pointed out that there is no neighborhood route outside of
27 the UGB.

28
29 Commissioner Maks requested clarification of how staff had determined that lots
30 with rear yard setbacks of fifteen feet could be approved on the site.

31
32 Mr. Osterberg stated that the preliminary plat is where the setbacks were
33 approved, adding that the Sterling Park Subdivision had originally been called the
34 Windsor Park Subdivision in 1995, and that this subdivision had been approved
35 with fifteen-foot rear yard setbacks for all of the lots, including the three lots that
36 are now proposed.

37
38 Commissioner Maks observed that the site was a tract, rather than lots, at that
39 time.

40
41 Mr. Osterberg informed Commissioner Maks that the preliminary plat approval
42 showed lots, adding that the tract had been created at the time of the final plat.

43
44 Commissioner Maks questioned whether the tract undoes the lots, emphasizing
45 that there were no lots, adding that he is attempting to determine whether the
46 property had always been under the ownership of the applicant.

1 Mr. Osterberg stated that the applicant owned the property, adding that it had
2 been sold and that the applicant should be able to explain more thoroughly how
3 they had regained possession.
4

5 Commissioner Maks pointed out that regardless of ownership, the platted
6 subdivision goes with the land, and questioned how the original rear yard setbacks
7 could apply, adding that because he disagrees with staff regarding this issue, he
8 may add an additional Condition of Approval to address this issue.
9

10 Mr. Osterberg stated that he understands Commissioner Maks' rationale.
11

12 Commissioner Bliss pointed out that Tract "B" is landlocked, observing that
13 although there is pedestrian access, there is no vehicular access, and that this
14 prevents future development and violates land use regulations. He questioned the
15 existence of a guarantee that the Crists would have vehicular access when they
16 develop their property at some future point.
17

18 Mr. Osterberg advised Commissioner Bliss that Tract "B" has pedestrian access to
19 Snowy Owl Lane, and that no such guarantee for vehicular access exists.
20

21 Commissioner Bliss noted that the City of Beaverton has accepted this as a
22 plausible alternative without any necessary guarantee, adding that the Crists could
23 end up having to build a bridge or purchase access to their own property.
24

25 Mr. Osterberg stated that the City of Beaverton has no intention of requiring the
26 Crists to build a bridge or purchase access to their own property when the City
27 reviews a development proposal on that property in the future.
28

29 Commissioner Bliss pointed out that there could be no connection to Alvord
30 Lane, although the Transportation Plan indicates a need for this connection,
31 emphasizing that he is not receiving clear signals.
32

33 Commissioner Maks suggested that the City of Beaverton could condemn and
34 purchase the necessary property in order to provide necessary access for the
35 continuation of the street.
36

37 Commissioner Bliss expressed his opinion that this is not always a solution.
38

39 Commissioner Maks pointed out that this option is sometimes forced upon a
40 developer, adding that if and when the Crists develop their property, it is apparent
41 that the City of Beaverton would want a north-south street installed between the
42 two stubs.
43

44 Expressing his agreement with Commissioner Maks, Commissioner Bliss
45 observed that although there is contiguous property to a possible future
46 connection, it is probably not necessary to make this connection at this time. He

1 mentioned that this property had originally been conditioned to make a future
2 connection.

3
4 Pointing out that these specific issues would be debated soon, Chairman Voytilla
5 urged the Commissioners to adhere to more relevant questions.

6
7 Commissioner Bliss requested clarification of whether the City of Beaverton has
8 received any documentation from the Crists, or particularly the holders of Tract
9 "B", indicating that the necessary dedication would be provided.

10
11 Mr. Osterberg responded that this documentation has not been received and is not
12 necessary.

13
14 Commissioner Barnard requested clarification of whether there is any difference
15 in the action itself of taking the property from the current owners at this time and
16 taking the property from the Crists five years from now. He emphasized that
17 either action is taking property from a private owner for dedication for public
18 right-of-way, adding that this could be against the wishes of the property owner.

19
20 Mr. Osterberg commented that either action is essentially the same and basically
21 requires the dedication of private property for a public street, specifically a future
22 connection for Alvord Lane.

23
24 **APPLICANT:**

25
26 **JOHN JUNKIN**, representing *Matrix Development Corporation*, introduced
27 Rand Smith and Randy Dyer of *WRG Development*, provided a brief history of
28 the application for the Sterling Park Subdivision, originating with Tract "B" in
29 1995, and Tract "E", which was approved by the City of Beaverton in 1997. He
30 pointed out that after this approval, Tract "E" was sold to Mrs. Crist, who
31 exercised her option on the property. The property was approved for subdivision
32 and went through several phases, including Phase 1, in June of 1997, for Lots 1
33 through 20. In August of 1997, Phase 2 occurred, which addressed an additional
34 78 lots, and in December of 1998, Phase 3, including an additional 76 lots, took
35 place.

36
37 Mr. Junkin mentioned that at some point, the appellants had determined that the
38 applicant would be responsible the connection of Alvord Lane, emphasizing that
39 this information is incorrect. He referred to a 1997 letter from Mr. Osterberg,
40 specifically the following statement: "Vehicular access to Alvord Lane is not
41 permitted for any development on Tract "E", except that which may be allowed
42 for emergency or maintenance vehicles." He clarified that the letter also indicates
43 that the City of Beaverton could revisit this in the future and that the frontage and
44 access to the future and through streets must be to the right of Tract "E" when the
45 street is constructed in a future phase. He emphasized that access for the
46 development of Tract "E" at any time in the future would have to be derived from

1 internal streets, rather than Alvord Lane, pointing out that in 1997 there had been
2 no intent to provide access to this subdivision by way of Alvord Lane.

3
4 Mr. Junkin discussed a modification submitted by the applicant in 1998, noting
5 that these are the Conditions of Approval that are now being considered but were
6 imposed at that time. He referred specifically to Condition of Approval No. 7,
7 which indicates that the future connection of SW Alvord Lane and SW Blackbird
8 Drive must have a viable design, and that the applicant must provide a
9 preliminary design showing a logical engineering design and profile that would
10 meet City design standards prior to subdivision modification approval. He
11 discussed Condition of Approval No. 8, pertaining to the future street connection
12 of SW Alvord Lane and SW Blackbird must meet the engineering design criteria
13 for site distance, etc. He pointed out that the applicant had submitted the required
14 viable design in 1998, adding that this is provided in Exhibit 3.

15
16 Observing that he understands concerns with connectivity, Mr. Junkin pointed out
17 that this has been adequately addressed. He clarified that this modification is an
18 attempt to affect Tract "M", which is a narrow strip of land along SW Blackbird,
19 and Tract "E", which would allow for the creation of three additional lots.
20 Observing that this is not an appropriate time for the City of Beaverton to impose
21 a new Condition of Approval under this modification, specifically the design,
22 dedication and construction of access to Alvord Lane. He emphasized that
23 requiring a property owner to provide the property and construct a road is not
24 proportional on an application of this nature. He explained that losing property to
25 right-of-way would prevent the development of these three lots, and that Phase 4,
26 which has already been approved and constructed, is not capable of
27 accommodating this access. He reiterated that the applicant had submitted the
28 required viable design, pointing out that they had relied upon and invested money
29 into this design, as well as constructing the road, subdivision and wall. He
30 pointed out that the appellant appears to be insinuating that the applicant is
31 attempting to pull something over on the City of Beaverton, emphasizing that this
32 is not accurate. He clarified that the 1997 letter from John Osterberg had pointed
33 out that it had never been intended that Tract "E" be used for access to SW
34 Alvord Lane. He questioned whether it is even appropriate to dedicate any
35 property that would provide services to rural areas, adding that the applicant is
36 agreeable to the dedication to the little corner piece of property. He emphasized
37 that the applicant has an issue with a requirement to provide access extension of
38 SW Blackbird and remove what has already been constructed based upon what
39 has been previously approved by this entity.

40
41 Mr. Junkin referred to a letter from Jeff Curran, the Project Manager of *WRG*
42 *Development*, observing that this document provides more detail regarding the
43 points in time with respect to the applicant's reliance upon the viable design that
44 had been submitted as part of the modification conditions in 1998. He addressed
45 several concerns that had been expressed by the Planning Commissioners,
46 including whether or not the triangle provides good planning. He explained that

1 one of the Conditions of Approval that had been imposed upon the applicant in
2 1998 was to submit a viable design for access, noting that this had been provided
3 to and accepted by the City of Beaverton. He emphasized that the applicant had
4 relied upon this acceptance and had provided the required improvements.

5
6 Mr. Junkin discussed Commissioner Johansen's concern with local access to SW
7 Alvord Lane, specifically whether the applicant had been shifting connectivity to
8 the Crists. He pointed out that there is no reason to access to the west of SW
9 Alvord Lane at this time, adding that while it is not certain when this would
10 become necessary or feasible, a viable design has been provided, as required.
11 Referring to Exhibit No. 3, where SW Sisken Terrace travels north into the Crist
12 property, he mentioned that there had been a public road recorded there at the
13 time the design had been submitted for approval. He discussed the issue of fire
14 safety access toward SW Alvord Lane, noting that this would not occur and
15 emphasizing that the Fire Marshall has informed the applicant that fire trucks
16 could not travel on that road.

17
18 Mr. Junkin mentioned concern with the landlocked Tract "B", noting that there
19 had been public access to Tract "B" at the time the required viable design had
20 been submitted, and pointed out that this parcel had been landlocked by the
21 property owner, rather than the applicant. He referred to a letter from *WRG*
22 *Development*, dated October 22, 2001, specifically Issue No. 7, in which the
23 appellant states that Tract "E" was not purchased by *Tualatin Hills Park &*
24 *Recreation District (THPRD)* due to the connectivity of SW Alvord Lane to SW
25 Blackbird. Observing that he understands that different people have different
26 positions on this issue, he expressed his opinion that this is intellectually
27 dishonest. Referring to the specific language of the Condition of Approval, he
28 pointed out that *THPRD* did not want the property due to the availability of an
29 abundance of other property that suited their purposes, and stated that the
30 appellant's statement was an effort to raise a nonexistent issue.

31
32 Commissioner Bliss assured Mr. Junkin that he is not arguing that SW Alvord
33 Lane should be connected to SW Blackbird by either the Crists or the developers
34 for the subdivision any time soon. He pointed out that the manner in which Tract
35 "E" has been passed around does suggest to him that some sort of game is being
36 played, adding that he had looked at a plan for *Legend Homes'* Sterling Park and
37 that this plan indicated that Tract "E" is open space. He expressed his opinion
38 that while the three proposed lots do not exist at this time, an honest sales effort
39 should indicate that Tract "E" is the location proposed for three additional lots.
40 He pointed out that over 200 lots should be more proportionally capable of
41 supporting the requested future connection than the owners of the Crist property.
42 He commented that he feels that the City of Beaverton and staff may have erred in
43 1995 and 1998, observing that they did not appear to have a clear indication of the
44 potential development of this property.

1 Emphasizing that he had not been involved in these transactions, Mr. Junkin
2 advised Commissioner Bliss that Ms. Crist had taken advantage of an option to
3 purchase Tract "E" from *Matrix Development Corporation* in February 1997,
4 adding that she had been responsible for the creation of this tract for her own
5 purposes. He explained that *Matrix Development Corporation* had purchased the
6 property back for \$140,000 in the year 2000, adding that he is not entirely certain
7 why she purchased and sold the property. Emphasizing that the City of
8 Beaverton, in 1995, had not originally intended any connectivity to SW Alvord
9 Lane, he pointed out that this has only been considered in the past few years. He
10 noted that a developer requires some sense of security throughout a development,
11 particularly one that includes several phases, noting that this has become
12 extremely difficult to achieve. He pointed out that the applicant is only requesting
13 that the City of Beaverton comply with the proposal as originally approved.

14
15 Commissioner Bliss noted that he hopes that staff has become more aware of
16 these issues and would make an attempt to project into the future when processing
17 applications, adding that he is aware that it is impossible to anticipate every
18 potential issue and property owner change.

19
20 Commissioner Johansen referred to the City of Beaverton's requirement in 1998
21 for the developer to provide a viable design for a future connection to SW Alvord
22 Lane.

23
24 Mr. Junkin emphasized that the developer had only to provide the viable design,
25 adding that this did not indicate that this would actually occur and that the
26 alternative had been demonstrated through the proposal for Tract "B" (Exhibit
27 No. 3).

28
29 **RANDY DYER**, representing *WRG Development* on behalf of the applicant,
30 stated that the alternative similar to that shown in the connection (Exhibit No. 3)
31 was accepted by staff and relied upon by the applicant for the design and
32 development of Phase 4.

33
34 Commissioner Johansen pointed out that staff had required the applicant to show
35 this alternative and asked why this had not raised questions.

36
37 Mr. Junkin commented that Exhibit No. 4 is a totally new exhibit that had not
38 existed until four months ago.

39
40 Commissioner Johansen requested clarification of what the applicant had
41 submitted in 1998 that satisfied staff with regard to the SW Alvord Lane/SW
42 Blackbird connection.

43
44 Mr. Junkin advised Commissioner Johansen that the applicant had submitted
45 Exhibit No. 3 in 1998 regarding the SW Alvord Lane/SW Blackbird connection.
46

1 Commissioner Johansen observed that Exhibit No. 3 involves a Siskan/Alvord
2 connection, rather than a SW Alvord Lane/SW Blackbird connection.

3
4 Mr. Dyer emphasized that this is all that had been presented in 1998, adding that
5 it had been accepted by the City of Beaverton and pointed out that he had not
6 been an employee of *WRG Development* at that time.

7
8 Mr. Junkin clarified that Exhibit No. 4 illustrates that this connection can no
9 longer occur because Phase 4 has been approved.

10
11 Commissioner Johansen expressed his opinion that the site has not yet been fully
12 developed.

13
14 Mr. Junkin informed him that there has been some development on the site,
15 including streets and roads that meet applicable City design standards.

16
17 Commissioner Johansen questioned whether it is physically impossible to make
18 this connection at this time.

19
20 Mr. Junkin stated that it is no longer possible to provide this connection and meet
21 applicable City street design standards.

22
23 Mr. Dyer observed that the entire cul-de-sac is not wide enough and would have
24 to be completely redesigned.

25
26 Mr. Gustafson clarified that Tract "E" was not part of the subdivision in 1998,
27 adding that staff was still hoping that a connection could be provided and that
28 they had intended to leave those future options open.

29
30 Chairman Voytilla requested that the Planning Commissioners and staff
31 remember to stick to the facts.

32
33 Commissioner Maks clarified that Exhibit No. 3 has been improved and presented
34 to staff as a possible connection from the subdivision to SW Alvord Lane, adding
35 that the applicant had constructed a cul-de-sac and a rock wall.

36
37 Mr. Junkin reiterated that this had been presented to staff in 1998 as a viable
38 design for the required future connection, emphasizing that this had been relied
39 upon by the applicant.

40
41 Commissioner Maks reminded Mr. Junkin of his question regarding the 15-foot
42 rear yard setback.

43
44 Mr. Junkin commented that the staff analysis had mentioned a phasing process
45 allowed for a variance for a 15-foot rear yard setback, adding that he agrees with
46 Commissioner Maks' analysis. He suggested that Tract "E" not be conditioned

1 with a 15-foot setback, as originally approved in 1995, adding that the applicant
2 no longer desires the 15-foot setback and would meet the required 25-foot
3 setback.

4
5 Following a brief discussion, Commissioner Maks **MOVED** and Commissioner
6 Barnard **SECONDED** a motion to suspend the rules for a 10:00 deadline for
7 action on an item and that the Public Hearing be allowed to continue until 11:30
8 p.m.

9
10 Motion **CARRIED**, unanimously.

11
12 **APPELLANT:**

13
14 **ALAN PRENTICE** and **ASHETRA PRENTICE** introduced themselves and
15 Ms. Prentice clarified that while she serves on the Board of Design Review, she is
16 representing herself on this issue.

17
18 Ms. Prentice discussed their appeal of the Planning Director's decision to divide
19 Tract "E" into three lots without providing for a roadway. Emphasizing that there
20 has been a great deal of confusion, she pointed out that she has been discussing
21 the issues with Mr. Osterberg through 1997, 1998 and especially 1999, when the
22 developer had begun construction of the retaining wall. She pointed out that this
23 retaining wall had not been included in the original platted plans.

24
25 Referring to the items that had been brought up in the appeal, Mr. Prentice
26 pointed out that there had been a Comprehensive Plan to connect Alvord Lane to
27 the east and that it appears to be the general consensus that this is intended as a
28 connection at some future point. He expressed his opinion that the design that has
29 been submitted utilizes other people's property, emphasizing that Tract "B" is
30 actually owned by a different subdivision and is partially owned by eighty
31 different property owners within that homeowner's association.

32
33 Ms. Prentice pointed out that the applicant had indicated that prints of these plans
34 had been submitted in 1998, adding that she has copied all available files and
35 found no document illustrating this connection at all. She mentioned that in her
36 conversations with Mr. Osterberg, he had advised her that since this was a tract of
37 land, that connection would be made when this tract was subdivided, which is
38 occurring at this time. She emphasized that there was no mention of alternate
39 being accepted, adding that the developer had begun work on the retaining wall in
40 1999, noting that this had not been on the prints either. She expressed concern
41 with the fact that this area had not even belonged to the applicant in 1999, adding
42 that they had only acquired the property in 2000. She mentioned that she is
43 confused with how the applicant was able to grade the property and install the
44 retaining wall prior to obtaining ownership of Tract "E". She discussed the
45 procedure for subdivision modifications, noting that Mr. Osterberg had informed
46 her that every modification begins with a new timeline, specifically five years in

1 which to complete that phase, and that Tract "E" would have been considered a
2 new subdivision approval at the time the application for modification was
3 submitted.

4
5 Ms. Prentice observed that she has color-coded the original 1998 Conditions of
6 Approval, adding that this had required a feasible design from Alvord Lane to
7 Blackbird. She explained that the developer is now presenting what they refer to
8 as a feasible design through Murray Ridge Tract "B", and into the Crist property,
9 which is currently undeveloped. She expressed her concern that this is not a
10 feasible design, noting that the developer does not own Murray Ridge or this land
11 and does not have any control over the Crist property.

12
13 Chairman Voytilla requested that Ms. Prentice address specific criteria in her
14 testimony.

15
16 Mr. Prentice referred to Item 1, expressing his opinion that Section 60.60.35.1 has
17 not been met, observing that this states that the functional classification plan map
18 and local street connectivity map shall be used to identify the potential street and
19 access way conditions. He noted that the current approved subdivision provides
20 no connectivity between Alvord Lane and Blackbird Drive, as shown in the
21 functional classification map, based on the fact that the property proposed for
22 dedication is not in the ownership of the individuals dedicating the property. He
23 referred to Section 40.35.15.3.1.D.1.A, regarding streets in general, which states
24 that the subdivision must provide for the continuation of existing principal streets
25 in the surrounding areas. He emphasized that Alvord Lane is an existing principal
26 street in the surrounding area and touches Sterling Park Subdivision, and yet no
27 access has been provided by the Sterling Park development, despite the 1998
28 Conditions of Approval that indicate that this is required.

29
30 Ms. Prentice referred to a *WRG Design* document, revised October 22, 2001,
31 noting that there had been a great deal of controversy regarding whether a
32 connection is necessary between Alvord Lane and Blackbird Drive. She read an
33 excerpt from the document, as follows: "The City of Beaverton Function
34 Classification Plan shows a neighborhood route/street/connection from the
35 terminus of Blackbird Drive to the extension of Alvord Lane. In accordance with
36 the subdivision approval criteria, the applicant is required to provide street
37 connections where required by the Comprehensive Plan." She read another
38 excerpt from the document, as follows: "If a street connection is not feasible,
39 then access way shall be provided to connect a cul-de-sac to public streets or to
40 property lines for future connections consistent with Development Code Sections
41 40.35.15.3.D.4 and 40.35.15.3.D.1.h." She further read that "...the 1998
42 modification approval for the cul-de-sac considered the possibility that the cul-de-
43 sac would be redesigned and extended in the future, if necessary. The applicants
44 propose to show that the northern alternative via Siskan Terrace is viable and
45 connectivity can be provided." She explained that since *WRG Design* and the
46 applicant have indicated that this connectivity can be provided, they should

1 provide documentation, emphasizing that she does not believe that connectivity
2 can be provided on two sections of land that they do not own.

3
4 Chairman Voytilla clarified that this is very common language for this business,
5 adding that the method in which the applicant is showing the feasibility indicates
6 that it can be designed in a manner that meets applicable code criteria. He further
7 explained that they are not considering at this point how or when ownership
8 would change in order to achieve this goal for the construction of that road in the
9 future.

10
11 Ms. Prentice advised Chairman Voytilla that this does not really make sense to
12 her.

13
14 Chairman Voytilla clarified that the feasibility of street design and location in this
15 instance is from an engineering standpoint.

16
17 Mr. Johansen questioned whether this would also indicate that a proposal for a
18 viable design that required the elimination of a grade school would be considered
19 acceptable.

20 Commissioner Maks referred to Murray Boulevard, observing that at one point, it
21 had only been a line that indicated a potential future connection. He explained
22 that this potential connection made no reference to direction or centerline, adding
23 that many different individuals were involved in the ownership of property along
24 that line. He emphasized that the ownership did not apply, and that it was not
25 determined which property would be purchased or homes would be taken until it
26 was determined that the connection would be made and the impacts of this
27 connection, adding that this was also dependent upon the centerline.

28
29 On question, Chairman Voytilla informed Ms. Prentice that the City has the
30 authority to obtain private property if there is adequate need.

31
32 Mr. Prentice requested that the Planning Commission also take into consideration
33 the fact that Tract "B" currently includes mature trees and is a common space of
34 the Murray Ridge Subdivision.

35
36 Ms. Prentice expressed her opinion that Section 40.35.15.3.D.1.c and
37 40.35.15.3.D.1.d have not been met, emphasizing that a viable connection has not
38 been made between Blackbird Drive and existing Alvord Lane to allow for
39 satisfactory future subdivision of adjoining lands and that only mythical
40 extensions have been implied.

41
42 Chairman Voytilla emphasized that the applicant has made the provision to carry
43 the road to the property's ownership line, agreeing with Ms. Prentice's statement
44 that they have no control over how or when adjoining property would develop.
45 He clarified that they have met the intent of the requirements by providing a stub
46 street to the north.

1 Ms. Prentice questioned whether the applicant has met the intent of the
2 Comprehensive Plan.

3
4 Chairman Voytilla explained that by providing the street stub the applicant has
5 met the intent of the Comprehensive Plan.

6
7 Mr. Prentice mentioned that they had been informed in 1998 that the reason that
8 the requirement for the connection from Alvord Lane to Blackbird Drive had been
9 eliminated was because Tract "E" had been pulled from the subdivision and that
10 the roadway did touch Tract "E", adding that future connectivity of Alvord Lane
11 would be determined at the time that Tract "E" was brought back into the
12 development. He emphasized that the applicant did not own the property at the
13 time that the rock wall was installed, adding that the appellant had not seen any
14 evidence of any designs being available at the time that the cul-de-sac was
15 proposed.

16
17 Chairman Voytilla briefly explained the procedure for a subdivision approval,
18 noting that the preliminary plat would not show items such as retaining walls. He
19 questioned where the Prentices lived in 1998 and whether there had been a Public
20 Hearing regarding the subdivision at that time.

21
22 Ms. Prentice informed Chairman Voytilla that they had lived in their present
23 location at that time, adding that there had been no Public Hearing regarding the
24 subdivision at that time.

25
26 Chairman Voytilla pointed out that the Prentices would have received notification
27 of the proposed development.

28
29 Ms. Prentice stated that they had reviewed the print, emphasizing that there had
30 been nothing included regarding the retaining wall or the cul-de-sac.

31
32 Mr. Prentice commented that the applicant had not even owned the property that
33 they excavated at that time.

34
35 Observing that he is not aware of who owns this property, Commissioner Maks
36 pointed out that the applicant is able to build a retaining wall on somebody else's
37 property if they have the permission of the property owner. He emphasized that
38 this has nothing to do with this appeal.

39
40 Chairman Voytilla stated that the cul-de-sac has been constructed and that a land
41 use action was necessary to achieve that. He advised Ms. Prentice that as an
42 affected property owner, she had received the required notification, and
43 questioned whether she had registered any concern in accordance with the
44 requirements of that review.

45

1 Ms. Prentice stated that she had been naïve and had not noticed anything that
2 caused her concern in the print at that time.

3
4 Chairman Voytilla informed Ms. Prentice that because a cul-de-sac and without
5 an extension has been built, this is what would have been shown.

6
7 Ms. Prentice reiterated that the prints had shown nothing unusual that would have
8 caused any concern, agreeing that she did have some perception that there would
9 be an extension of Alvord Lane.

10
11 Chairman Voytilla stated that unless there was a specific Condition of Approval
12 requiring the extension, nothing indicated that this extension would be a
13 requirement, emphasizing that only submittal of a viable design had been required
14 in order to meet the Development Code.

15
16 Ms. Prentice stated that she had specifically asked Mr. Osterberg and that he had
17 not indicated that this extension might not be completed.

18
19 Chairman Voytilla advised Ms. Prentice that she is relying upon conversations
20 that occurred over three years ago, noting that the letter from Mr. Osterberg
21 clearly explains the situation. He emphasized that this letter had been available in
22 the files, pointing out that the letter is dated from April of 1997.

23
24 Observing that this letter had been submitted by the applicant this evening, Mr.
25 Osterberg stated that he does not believe that this particular letter is in the current
26 file for the appeal.

27
28 Ms. Prentice referred to Section 40.35.15.3.D.1.f, observing that adequate right-
29 of-way has not been provided.

30
31 Chairman Voytilla said that the applicant has indicated a feasible way in which
32 connectivity could occur to Alvord Lane.

33
34 Commissioner Maks commented that he understands the Prentices confusion,
35 observing that a phased project such as this is difficult for adjacent property
36 owners to follow. He explained that right-of-way indicates that the applicant
37 provides land for that roadway, adding that they had never been conditioned to
38 provide this, although they had been conditioned to illustrate how this connection
39 could be made.

40
41 Mr. Prentice referred to Item No. 6, which deals with the 15-foot setbacks, adding
42 that while he prefers thirty feet, he accepts the standard of 25-feet. He questioned
43 whether this could be included in the Conditions of Approval for clarification
44 purposes.

45

1 Ms. Prentice referred to Item No. 8, observing that Sections 60.60.35.2.A.1,
2 60.60.35.2.A.2, 60.60.35.2.A.3 and 60.60.35.2.A.4, pertaining to the
3 encouragement of bicycle and pedestrian travel, have not been met. She
4 expressed her opinion that this should be accessible to Sterling Park now, rather
5 than in the mythical future, pointing out that a great many residents of Sterling
6 Park are scaling that wall in order to walk in those woods.
7

8 Observing that the Prentices characterize their property as rural residential,
9 Chairman Voytilla observed that these codes relevant for lands within the UGB.
10

11 Ms. Prentice pointed out that a large portion of their property taxes are directed to
12 the Beaverton School District, adding that they would like to have a pathway
13 allowing their children to walk to Scholls Elementary School. She pointed out
14 that the City of Beaverton encourages pedestrian connectivity, adding that this
15 pathway would enhance everyone and provide an access way for future
16 development.
17

18 Summarizing, Mr. Prentice expressed his opinion that the requirements of the
19 functional map are not met with this application, emphasizing that they are using
20 other people's property, that the proposed 15-foot setback should be extended to
21 the required 25-foot setbacks, and that the requested pedestrian pathway should be
22 included to connect the current subdivisions.
23

24 Commissioner Maks commended the Prentices for their efforts on this appeal,
25 which he referred to as one of the best submittals he has received from the public.
26

27 Following a brief discussion, Commissioner Maks **MOVED** and Commissioner
28 Bliss **SECONDED** a motion to suspend the rules for a 10:00 deadline for action
29 on an item and that the Public Hearing be allowed to continue until 11:45 p.m.
30

31 Motion **CARRIED**, unanimously.
32

33 **PUBLIC TESTIMONY:**

34

35 **SCOTT RUSSELL** explained that Tract "E" had been purchased by his mother,
36 Mrs. Crist, who had abandoned her plans to reside on the property due to
37 improvements in her health. He pointed out that there are no current plans for the
38 development of this property, expressing his opinion that bringing Alvard Lane up
39 to standards would require monumental efforts. He recommended that pedestrian
40 access could possibly occur along the top of the rock wall to provide connectivity
41 for students to walk to school, adding that there should be connectivity to Snowy
42 Owl, rather than Alvord Lane.
43

44 **APPLICANT REBUTTAL:**

45

46 Mr. Junkin pointed out that planning and development is not necessarily the same
47 thing, adding that it might be necessary for the City of Beaverton to finance future

1 connectivity. He mentioned that the applicant is providing that corner for
2 connectivity in the event that the City decides to go across Tract "B" at some
3 future point, adding that they had also provided the required viable design. He
4 emphasized that the applicant is willing to comply with the required 25-foot
5 setback. Referring to the requested pedestrian access, he mentioned that in land
6 use matters, there must be a relationship between what is required of the
7 developer and what the development is proposing. He commented that the street
8 requested by the appellant would be basically serving one or two families, rather
9 than all of Sterling Park, and questioned whether there is a basis with which to
10 impose such a condition on this application.

11
12 **RAND SMITH**, representing *WRG Design*, addressed concerns with meeting the
13 functional classification map, observing that while this map is general in nature,
14 the proposal would still meet the two connections to the north.

15
16 Mr. Junkin commented that creation of the three private lots and home building
17 would reduce the number of individuals scaling the wall in order to enter the
18 woods.

19
20 Mr. Smith clarified that their proposal could result in a potential east/west
21 connection, in concert with the northern extension of Alvord Lane, adding that
22 this particular line is not illustrated not on the functional classification map.

23
24 Commissioner Johansen emphasized that this is not a representation of the City of
25 Beaverton's functional classification map, and requested clarification of whether
26 all of the other lines are drawn as intended.

27
28 Mr. Smith assured Commissioner Johansen that the other streets fulfill the intent
29 of the functional classification map.

30
31 Commissioner Johansen requested clarification of how Mr. Smith made this
32 determination, specifically whether the City of Beaverton possesses a larger scale
33 map that provides this information.

34
35 Mr. Smith explained that this is the closest representation available in terms of on
36 the map, adding that staff has indicated that this is a general map providing the
37 general location.

38
39 Mr. Osterberg pointed out that the applicant has stated that they drew and
40 submitted something on the Comprehensive Plan Map to the Planning
41 Commission, adding that his comparison what was submitted to the Planning
42 Commission with the Comprehensive Plan Map shows no difference.

43
44 Observing that this is confusing the issue, Mr. Smith requested that this map be
45 withdrawn.

1 Chairman Voytilla stated that this particular map has been withdrawn and should
2 not influence the Planning Commissioner's decision.

3
4 On question, Mr. Naemura indicated that he had no comments regarding this
5 application.

6
7 The public portion of the Public Hearing was closed.

8
9 Commissioner Maks stated that this particular appeal is one of the best he has
10 reviewed by a member of the public, emphasizing that the lines on these maps can
11 potentially move, and expressed his support of staff's recommendation for denial
12 of the appeal.

13
14 Commissioner Bliss expressed his opinion that although staff had failed to
15 provide all necessary information from 1998, the extension of Blackbird Drive is
16 not needed and he supports staff's recommendation for denial of the appeal.

17
18 Commissioner Barnard expressed his agreement with Commissioner Bliss's
19 comments and his support of staff's recommendation for denial of the appeal.

20
21 Commissioner Johansen expressed his support of staff's recommendation for
22 denial of the appeal, adding that he is disappointed in the City of Beaverton's
23 failure to assume a leadership role in such a situation, emphasizing that he does
24 not feel that staff alone is to blame.

25
26 Commissioner Maks **MOVED** and Commissioner Bliss **SECONDED** a motion
27 that APP 2001-0016 – Appeal of Sterling Park Subdivision Modifications (SB
28 2001-0002) be **DENIED**, and that SB 2001-0002 – Sterling Park Subdivision
29 Modifications be **APPROVED**, based upon the testimony, reports and exhibits
30 presented during the Public Hearing on the matter and upon the background facts,
31 findings and conclusions found in the Staff Report dated October 24, 2001, with
32 Condition of Approval Nos. 1 and 2, and including Condition of Approval No. 3,
33 as follows:

- 34
35 3. The lots proposed within this Sterling Park Subdivision
36 Modification shall abide by the setbacks identified for this zoning
37 district in the Development Code.

38
39 Motion **CARRIED**, unanimously.

40
41 **APPROVAL OF MINUTES:**

42
43 Chairman Voytilla noted that the minutes of the meetings of October 3, 2001 and
44 October 17, 2001 would be reviewed and approved at the meeting of November 7,
45 2001.

46

1 **MISCELLANEOUS BUSINESS:**

2
3 Chairman Voytilla emphasized that the next meeting would involve the update of
4 the Development Code, adding that tapes of both work sessions would be
5 provided to Commissioner Lynott, who did not attend, and in the interest of
6 expediting the Public Hearing, suggested focusing on public comments prior to
7 discussing potential revisions, adding that these would be addressed at future
8 meetings.

9
10 The meeting adjourned at 11:52 p.m.